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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,570	02/05/2002	David S. Utterberg	639 P 393	2345

27717 7590 12/28/2004

SEYFARTH SHAW
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SUITE 4200
CHICAGO, IL 60603-5803

EXAMINER

MENDEZ, MANUEL A

ART UNIT PAPER NUMBER

3763

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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12232004

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Please refer to the enclosed "Non-Responsive Amendment".

Manuel Mendez
Primary Examiner
Art Unit: 3763

Non-Responsive Amendment

The timely submission under 37 CFR 1.129(a) filed on July 6, 2004 is not fully responsive to the prior Office action because:

- The examiner of record noticed that the amendment does not provide guidance as to the definition of the term "close loop" disclosed in the pending claims of this application. The "close loop" term is disclosed within a "whereby" clause. Concerning "whereby" clauses, Office personnel must rely on the applicant's disclosure to properly determine the meaning of the term "close loop" in the claims. *Markman v. Westview Instruments*, 52 F.3d 967, 980, 34 USPQ2d 1321, 1330 (Fed. Cir.) (en banc), *aff'd*, U.S., 116 S. Ct. 1384 (1996). Accordingly, the examiner of record respectfully requests applicant to identify the supporting paragraphs within the specification in order to properly define the term in question.
- Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is

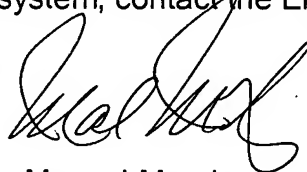
Art Unit: 3763

construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel Mendez whose telephone number is 703-308-2221. The examiner can normally be reached on 0730-1800 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Brian Casler can be reached on 703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Manuel Mendez
Primary Examiner
Art Unit 3763

MM